

**Cost Recovery Assessments for Sites in the
Voluntary Cleanup Oversight and Assistance Program (VOAP)
Revised March 28, 2016
(Originally issued January 1, 2007)**

The purpose of this document is to outline the cost recovery assessments that are to be paid by parties participating in the VOAP. Each site will be assessed specific costs associated with the phase of work and each succeeding phase of work will incur an additional cost recovery assessment. These assessments will be invoiced to the participating party or its assigns, and must be paid, prior to receiving written approval to continue with the next phase of work. This revised Cost Recovery Assessment is effective January 1, 2017.

PHASED ASSESSMENT STRUCTURE

I. Description of Categories

Phase I/Program Entry (\$750) – This phase includes the initial VOAP application fee and time associated with the review and/or evaluation of any assessment data (e.g., a Phase I and/or Phase II Environmental Site Assessment or other similar document) submitted at the time of application. Billing for this phase will be initiated by the Nashville Central Office at the time the application is received.

DoR has worked with Voluntary Parties who may not need a formal Agreement. In these cases, an application should be submitted and the entry fee paid. DoR staff will review the data presented and, as appropriate, issue a Letter of No Additional Action. The Letter of No Additional Action does not carry or imply that liability protection has been extended to the Voluntary Party. The letter serves only to say that the State has reviewed and agreed, based on the data provided, that no additional investigations or remedial actions are required. As an example, a letter of No Additional Action may be issued for a property when arsenic is found above the regional screening level with no other contaminants identified. In some cases, DoR may ask that a NLUR be placed on the property.

Phase II/Site Characterization (\$2,000) – This phase includes reviewing, modifying, and/or approving a submitted work plan for supplemental site investigation, including overseeing the fieldwork and review of associated report for additional site characterization. Billing for this phase will be initiated by the Project Manager in the Field Office. Activities under this phase of work may include but are not limited to:

- Collection and analysis of samples of wastes, soils, sediments, ground water, surface water and/or other media;
- Evaluation of the sampling and analysis results to determine if contamination exists which warrants further investigation and/or remediation;

- Characterization of the nature and extent of contamination in soils;
- Determination if groundwater contamination exists which warrants further investigation and/or remediation;
- Characterization of the nature and vertical and horizontal extent of contamination in groundwater.

Phase III/Remediation/Corrective Action (\$2,500) – This phase includes reviewing, modifying, and/or approving a submitted work plan, for overseeing the field implementation of the work plan and review of associated report for a planned Corrective Action. A Soil Management Plan to be implemented during site redevelopment is included in this phase of work. Billing for this phase will be initiated by the Project Manager in the Field Office. Oversight of remediation field efforts and confirmatory sampling and analysis designed to effect remediation of soil and/or groundwater contamination may include:

- Waste/soil removal with off-site disposal, groundwater removal with off-site disposal, or other remediation efforts.
- Waste/soil removal with on-site treatment or disposal, repeated groundwater removal with on-site treatment or disposal, or other remediation efforts.
- Monitored natural attenuation, *in-situ* biological treatment, groundwater “pump and treat” programs, or other remediation efforts designed to clean up soil and/or groundwater contamination over an extended period of time.

Phase IV/Risk Assessments (\$2,000) – Some projects include a risk assessment in order to develop site specific appropriate cleanup targets. This assessment is for reviewing, modifying, and approving/disapproving a formal, comprehensive assessment of the risks posed by contamination in soil and groundwater in support of alternate cleanup levels. Billing for this phase will be initiated by the Project Manager in the Field Office.

Vapor Intrusion Evaluation (\$2,000) – This phase involves reviewing, modifying, and/or approving a submitted Work Plan for supplemental site investigation specific to evaluation of the potential for vapor intrusion including overseeing the fieldwork and review of the associated report. Billing for this phase will be initiated by the Project Manager in the Field Office. Activities under this phase of work may include but are not limited to:

- Collection and analysis of samples of soil gas, sub slab vapors or indoor air;
- Evaluation of the sampling and analysis results to determine if contamination exists which warrants further investigation and/or remediation;
- Characterization of the nature and extent of contamination in groundwater, soil gas, vapors or indoor air;
- Determination if groundwater, soil gas, sub slab vapors or indoor air contamination exists which warrants further investigation and/or remediation;

Land Use Restriction (\$500) – This is a one-time assessment for sites requiring land use restrictions when parties are not seeking a Brownfield Agreement. If parties are seeking a brownfields agreement, this charge is not separate from the Brownfield Voluntary Agreement/Consent order charge. Billing for this phase will be initiated by the Nashville Central Office.

Brownfield Voluntary Agreement/Consent Agreement (\$3,000) - Pursuant to Tennessee Code Annotated § 68-212-224, the Commissioner is authorized to enter into a Voluntary Agreement with parties who are willing and able to conduct an investigation and remediation of a hazardous substance site or Brownfields project and who did not generate, transport or release the contamination that is to be addressed at the site. In return for their efforts, participants can receive a No Further Action letter and a release of liability for areas where investigation and cleanup is conducted. In addition, state law allows the Commissioner to enter a consent order with any person wishing to voluntarily cleanup a site included parties that may not be considered an innocent party. Billing for this phase will be initiated by the Nashville Central Office.

Annual Assessment (\$3,000) – Where a site remains in the program for more than a year for reasons beyond the control of the department, an annual assessment is charged to support ongoing project oversight. Once a site is in the remedial action phase, costs associated with long-term monitoring or other on-site activities required of TDEC staff time will be recovered in the annual assessment. The annual assessment is an additional cost to the other assessments identified in part I. Billing for this phase will be initiated by the Project Manager in the Field Office.

II. Assessment Guidelines

1. No review or oversight will be performed until all applicable financial assessments have been prepared and forwarded to the Central Office for processing. The project manager shall submit a Voluntary Program Financial Assessment form at the time of receipt of a work plan, report or other document requiring Division review and/or approval. The regional field office manager should review this assessment before forwarding it to the Central Office. The particular type of document or submittal which is triggering the assessment must be noted on the form. The assessment form will be processed by the Central Office and result in the issuance of an invoice to the voluntary party. Fees must be paid to remain in the VOAP and ultimately a letter of closure (NFA or NAA).
2. Participating parties can be assessed multiple assessments per phase, if a subsequent investigative or remedial action is determined by the Department to constitute a significant modification to the previous scope of work or work plan. Additionally multiple phases of work or reporting under a single work plan may be assessed additional fees, at the discretion of the regional office manager or Director. These fees may also be based on the anticipated level of effort. For example, the costs associated with the Division's personnel time reviewing multiple years of monitoring and reporting under a single work plan, should be recovered. Significant modification could include changing remedial technologies or discovering contamination unknown at the time the work plan was approved. Another factor to consider is the additional level of effort needed to

review the subsequent investigative or remedial action phase.

3. The annual assessment is in addition to the other assessments and will be required for any site that remains in the voluntary program beyond one year of the date the site was accepted into the voluntary program. This assessment does not include the review of any documents that may be submitted during the same year.

4. The Division will charge an hourly rate (adjusted annually based on prior year expenses) for oversight that extends beyond 150 cumulative hours (not individual phases) during the initial or any subsequent state fiscal year(s). These additional cost recovery assessments will be invoiced on a quarterly basis. The current billable rate is \$75 per hour.